THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 24790 of 2006

01-12-2006

Between:-

K. Venkata Rao

Petitioner

And

The Govt. of A.P.,
Rep., by its Prl. Secretary to Government,
Municipal Administration and Urban Development,
Secretariat Building, Hyderabad and two others.

Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.No. 24790 of 2006

Oral order:

The petitioner's grievance is that the employees/staff of the Municipal Corporation of Vishakapatnam are resorting to "illegal, arbitrary, highhanded and *mala fide* acts of demolition" of a part of the compound wall surrounding the petitioner's building bearing municipal No.7-5-1/55 in R.A.No 177/93, Ward No.21 in an area of 700 Sq. Yards, Waltair ward near Aquarium, R.K. Beach Road, Vishakapatnam without any notice or initiation of lawful power and authority. According to the petitioner, these officers and employees of the Municipal Corporation had come to the petitioner's property on 17-11-2006 at 5-00 P.M. and started demolishing the compound wall.

If the demolition of the compound wall by any person in public office, including any of the respondents herein or any other public officer representing the respondents or otherwise in public office, is without lawful authority and after due procedure established under law, the petitioner has a plurality of remedies. The petitioner may exercise the right of private defence of his property and use countervailing force to prevent such criminal trespass. The petitioner may name the person including a person in public office, who has committed criminal trespass, convey information as to the commission of such cognizable

offence to the jurisdictional police station and seek investigation into the complaint. When such a complaint is made including against any of the respondents or their staff and the complaint does set out facts which disclose information as to commission of a cognizable offence, the police are bound to register the same and investigate. The police are also obligated to deploy the sovereign power of the State to a citizen including the petitioner to prevent criminal trespass by any person including a person holding a public office. The petitioner has yet another remedy. He may approach the jurisdictional civil court and seek injunctive relief and in case of urgency, he may also seek dispensing with the notice period, if any, required under Section 80 of the Code of Civil Procedure, 1908. In the context of the availability of a plurality of remedies, this court is not inclined to adjudicate the grievance of the petitioner under Article 226 of the Constitution of India. The writ petition is dismissed with liberty to the petitioner to pursue the appropriate remedies. No costs.

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GODA RAGHURAM, J

Dated:01-12-2006
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